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Paper No. 14

LESTER SUSSMAN 9213 BULLS RUN PARKWAY BETHESDA MD 20817-2403

**COPY MAILED** 

AUG 0 1 2006

**OFFICE OF PETITIONS** 

In re Application of

Lester Sussman

Application No. 09/781,698

Filed: February 13, 2001

Title: SYSTEM AND METHOD FOR A COMPLETE AND CONVENIENT

SHOPPING EXPERIENCE

**DECISION ON PETITION** 

This is in response to the renewed petition under 37 CFR 1.181, filed May 9, 2006, to withdraw the holding of abandonment.

On February 5, 2004, the Office mailed a Notice of Non-Compliant Amendment, which set a one-month extendable period to reply. The application became abandoned on March 6, 2004, for failure to submit a timely response to the Notice. On April 20, 2004, the Office mailed a Notice of Abandonment.

In the present renewed petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the Notice of Non-Compliant Amendment and the Notice of Abandonment.

## PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notices, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notices were properly mailed to the address of record.

In the present renewed petition, petitioner provided the Office with an explanation of his system for docketing and tracking communications from the USPTO. Unfortunately, petitioner did not submit any documentary evidence such as a print out or copy of his computer Calendar program or the "To-

Do-Task-List," showing all of the USPTO correspondence received by petitioner, covering a reasonable period after February 5, 2004, to demonstrate nonreceipt of the Notice of Non-Compliant Amendment. In other words, petitioner should provide the USPTO with copies of any documentary records showing where petitioner would have entered the receipt date of the Notice of Non-Compliant Amendment had petitioner received it.

Although petitioner provided an explanation of his method for tracking due dates for patent related communication, petitioner did not submit any documentary evidence in order to meet the showing that petitioner did not receive the Notice of Non-Compliant Amendment. Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

Any request for reconsideration of the dismissal of the petition to withdraw the holding of abandonment due to nonreceipt of the Notice of Non-Compliant Amendment must be submitted within **TWO (2) MONTHS** from the mailing date of this decision. The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment," as well as documentary evidence, as indicate above, to demonstrate nonreceipt of the Notice of Non-Compliant Amendment. Extensions of time are permitted under 37 CFR 1.136(a).

## **ALTERNATIVE VENUE**

Petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a nonfinal Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
- (2) The petition fee as set forth in 37 CFR 1.17(m), \$750.00 for a small entity;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

By FAX:

(571) 273-8300

Attn: Office of Petitions

By hand:

Customer Service Window

Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina J. Donnell

Christina Tartera Donnell Senior Petitions Attorney Office of Petitions